

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:23-md-3076-KMM

In RE

FTX CRYPTOCURRENCY
EXCHANGE COLLAPSE LITIGATION

THIS DOCUMENT RELATES TO:

Law Firms

**DEFENDANT FENWICK & WEST LLP’S RESPONSE PURSUANT TO
LOCAL RULE 7.8 TO PLAINTIFFS’ SUPPLEMENTAL AUTHORITY
(OTTO CANDIES LLC V. CITIGROUP INC.) IN SUPPORT OF PLAINTIFFS’
OPPOSITION TO DEFENDANTS’ MOTIONS TO DISMISS**

Fenwick responds to Plaintiffs’ notice regarding *Otto Candies, LLC v. Citigroup Inc.*, 2025 WL 1337052 (11th Cir. 2025). Dkt. 903.

Although knowledge “may be alleged generally,” Rule 9(b) nonetheless requires a plaintiff to “plead[] factual content that allows the court to draw the reasonable inference that a defendant knew about the alleged fraud.” *Id.* *8. Whereas the *Citigroup* plaintiffs pled facts plausibly alleging Citigroup’s knowledge—including its CEO’s admission that employees actively participated in the fraud, gross disparities in amounts it advanced under fraudulent contracts, and its investigation and termination of employees involved in the fraud—the MDL Plaintiffs have alleged nothing of the sort against Fenwick. Dkt. 276 at 16–18.

MDL Plaintiffs’ allegations about Fenwick’s “substantial assistance” are also easily distinguishable from *Citigroup*, where the plaintiffs alleged Citigroup presented to investors, processed cash advances based on forms that it knew were forged and concealed the enterprise’s

financial condition. By contrast, MDL Plaintiffs do not allege Fenwick directly participated in the fraud. Dkt. 276 at 6–7. And unlike Citigroup, Fenwick provided *legal*—not *banking*—services, and counsel cannot be liable based on providing routine legal services. Dkt. 276 at 9–15; Dkt. 408 at 10–12, 15–17.

Respectfully submitted,

/s/ Nicole K. Atkinson

DAVID R. ATKINSON

Florida Bar No.: 767239

datkinson@gunster.com

mmargolese@gunster.com

eservice@gunster.com

NICOLE K. ATKINSON

Florida Bar No.: 167150

natkinson@gunster.com

GUNSTER, YOAKLEY & STEWART, P.A.

Brickell World Plaza

600 Brickell Avenue, Suite 3500

Miami, FL 33131

Tel: (305) 376-6000, (561) 655-1980

Fax: (305) 376-6010, (561) 655-5677

KEVIN S. ROSEN (*pro hac vice*)

krosen@gibsondunn.com

MICHAEL HOLECEK (*pro hac vice*)

mholecek@gibsondunn.com

SAMUEL ECKMAN (*pro hac vice*)

seckman@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

333 South Grand Avenue

Los Angeles, CA 90071

Tel: (213) 229-7000

Fax: (213) 229-7520

Counsel for Defendant Fenwick & West LLP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 29, 2025, I electronically filed the foregoing with the Clerk of Court using CM/ECF, and that the foregoing document is being served on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to electronically receive Notices of Electronic Filing.

/s/ Nicole K. Atkinson

NICOLE K. ATKINSON

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